IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 927 OF 2004

IN

SUMMARY SUIT NO. 1010 OF 2004

Rajan Babu V. Nair .. Plaintiff.

vs.

Travelex Global and
Financial Services Ltd,.
& Anr. .. Defendants.

Mr. Naushad Engineer i/by Mulla & Mulla
for plaintiff.
Mr. Uday Singh i/by Mahendra Patel & Asso.
for defendant no.1.
Mr. Ketan Parekh for defendant no. 2.

CORAM : S.U. KAMDAR, J.
DATE : 10TH OCTOBER, 2005.

P.C.

. The present suit is filed for recovery of Rs. 4,95,000/-. The case of the plaintiff is that the defendant no. 2 had issued travellers cheques and under the terms and conditions of the said agreement if the travellers cheques are lost by the plaintiff, plaintiff was entitled to the refund. It

is the further case of the plaintiff that the said travellers cheques are lost and therefore, the plaintiff is seeking refund from the defendants. However, the case of the defendants is that mere loss of the traveller cheque is not sufficient to claim the refund. But the agreement provides for various terms and conditions which are required to be fulfilled before a claim can be processed and paid. It is the case of the defendant that the said terms and conditions are not complied with. However, the learned counsel for the plaintiff states that the defendant has not indicated which are the terms and conditions not complied with. It is further contended that the defendants have merely stated that they are not satisfied with the case of the plaintiff that the cheques are lost. In my opinion, the aforesaid factors raise triable issues in the present case. Summons for judgment is dismissed. Unconditional leave to defendant to defend the suit is granted.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from today. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.